

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

---

LORI ANN MORAN,  
Plaintiff

v.

ANDREW DIPASQUA, MICHAEL  
SANBORN, WILLIAM F. GAY, III, and  
the ONSET FIRE DISTRICT,  
Defendants

---

C.A. No. 05-10033 NG

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO ENLARGE TIME TO  
FILE ADDITIONAL SUMMARY JUDGMENT AFFIDAVIT**

Now come the Defendants and hereby oppose Plaintiff's Motion to Enlarge Time to File Additional Summary Judgment Affidavit. As grounds therefore, the Defendants state:

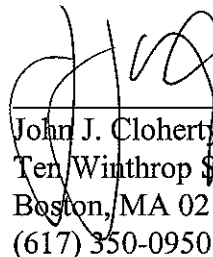
1. The Defendants initially served their Motion for Summary Judgment on April 3, 2006.
2. The Plaintiff had approximately two months to file her opposition after seeking and obtaining two separate extensions of time.
3. Plaintiff never asserted that difficulty obtaining an Affidavit from James Franklin was a reason for any prior extension of time.
4. Plaintiff has been aware James Franklin was a potential witness in this case for at least three years, as stated at the time of her deposition in January 2006. See Depo. of L. Moran, p. 147 (identifying James Franklin as a witness whom she talked to a couple of weeks after the February 2003 incident) (attached hereto as Exhibit A).
5. Plaintiff's motion now makes no explanation as to why she waited until the summary judgment deadline passed to secure the signature of Mr. Franklin, other than his having a work emergency on the day of the summary judgment deadline.

6. The Affidavit of James Franklin has no tendency to create a genuine dispute as to a material fact for those reasons set forth in Defendants' Motion for Summary Judgment.

WHEREFORE, the Defendants request this Honorable Court deny Plaintiff's Motion to Enlarge Time to File Additional Summary Judgment Affidavit.

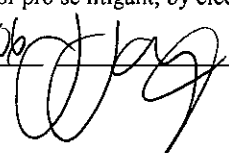
Respectfully submitted,  
The Defendants,  
ANDREW DIPASQUA, MICHAEL SANBORN, WILLIAM  
F. GAY, III, and the ONSET FIRE DISTRICT,  
By their attorneys,

**PIERCE, DAVIS & PERRITANO, LLP**

  
\_\_\_\_\_  
John J. Cloherty III, BBO#566522  
Ten Winthrop Square  
Boston, MA 02110  
(617) 350-0950

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon each attorney of record, or pro se litigant, by electronic mail.

6/12/06   
\_\_\_\_\_  
Date

# **EXHIBIT “A”**

ORIGINAL

Volume: I

Pages: 1 - 187

Exhibits: See Index

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

-----  
LORI ANN MORAN,

PLAINTIFF :

VS.

: C.A. NO. 05-10033NG

ANDREW DIPASQUA, MICHAEL, :  
SANBORN, WILLIAM F. GAY, III, :  
and the ONSET FIRE DISTRICT, :  
DEFENDANTS :  
-----

DEPOSITION of LORI ANN MORAN, a witness called on behalf of the Defendants, pursuant to the provisions of the Federal Rules of Civil Procedure, before Nancy M. Walsh, Certified Shorthand Reporter (#118593)/Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the law office of Pierce, Davis & Perritano, LLP, 10 Winthrop Square, Boston, Massachusetts 02110, on Wednesday, January 4, 2006, commencing at 10:13 a.m.

\_\_\_\_\_  
CURRAN COURT REPORTING  
21 Rowe Hill Road  
Stoneham, Massachusetts 02180  
(781) 279-8400

CURRAN COURT REPORTING

1 swore at Mr. Gay as alleged in Paragraph 9 of your  
2 Complaint?

3 A No.

4 Q Who, if anyone, told you that that happened?

5 A Jimmy Franklin, James Franklin.

6 Q And who is James Franklin?

7 A He's a call firefighter for the Onset Fire Department.

8 Q And when did you speak to him about the incident?

9 A Sometime after this happened, a couple of weeks maybe.

10 Q And how was it that you were talking to Jim Franklin  
11 about the incident in February of 2003?

12 A During this incident, Kathi asked me to go home. I was  
13 already at work, but she asked me to go home to check on  
14 my husband. And I told her I didn't need to. And she  
15 said, With the amount of snow and his heart problems,  
16 maybe you should check on him. I said, No need to  
17 because he's at school, he's at work. She said, I need  
18 you to leave. And I said, I don't have a lot of time on  
19 the books; I prefer not to. And she says, Well, I need  
20 you to leave for about an hour; I need to put  
21 Superintendent Gay, she might have called him Billy --  
22 he needs to be put back in his place; he's getting out  
23 of hand again.

24 Q And what did you do in response to that?